

ARTICLE 52

SEC. 21-52 VARIANCES.

52.1 Variance: Variances, revocable, conditional and/or valid for a term period, from the development standards of this Chapter may be applied for and granted when because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the development standards of this Chapter are found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The Board of Supervisors or Planning Commission may impose such conditions as they deem necessary to secure the purposes of this Chapter and may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

52.2 Applicability:

- (a) The provisions of this section shall apply to all zone districts.
- (b) In no case shall a variance be granted to permit a use or activity which is not otherwise permitted in the district in which the property is located.
- (c) Variances may only be granted from the regulations on land, buildings, and structures, and no variance may be granted from the procedural regulations of this Chapter.

52.3 Application: Application for a variance shall be made in writing by the owner of the property; or lessee, purchaser in escrow or optionee with the written consent of the owner; or by a public utility company or other agency with the powers of eminent domain, on a form prescribed by the Planning Department. The application shall be accompanied by a fee in an amount to be set by the Board of Supervisors. A plan of the details of the variance requested, other pertinent information required by the Planning Department as provided in [Article 55](#) and evidence showing 1) that the granting of the variance will not be contrary to the intent of this Chapter or to the public safety, health and welfare, and 2) that due to special conditions or exceptional characteristics of the property, or its location, the strict application of this Chapter would result in practical difficulties and unnecessary hardships; and deprives such property of privileges enjoyed by other properties in the vicinity and identical zoning district. (Ord. No. 1749, 7/7/1988)

52.4 Public hearing and notice:

- (a) A public hearing shall be held on any application for a variance.
- (b) The Review Authority for variances shall be the Planning Commission.
- (c) Notice of any public hearing shall be given as provided in [Section 57.3](#).

52.5 Findings required for approval: The Review Authority may only approve or conditionally approve a variance if all of the following findings are made:

- (a) That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the development standards of this Chapter are found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;
- (b) That any variance granted is subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situate; and
- (c) That the granting of the variance is in accordance with the intent of this Chapter, is consistent with the General Plan and will not be detrimental to the public safety, health and welfare, or injurious to other properties in the vicinity.

52.6 Permit issuance and appeal period: Variances shall not be issued until seven (7) calendar days have elapsed from the granting thereof, and in case an appeal is filed from the Planning Commission decision thereon shall not be issued until a decision has been made by the Board of Supervisors on such appeal. Variances shall not have any force and effect until the permittee acknowledges receipt thereof and agrees in writing to each and every term and condition thereof.

52.7 Appeals: A decision of the Planning Commission on a variance application may be appealed to the Board of Supervisors in accordance with the provisions of [Section 58.30](#) et seq. of this Chapter.

52.8 Reapplication: Reapplication for denied variances shall be as provided in [Article 60](#).

52.9 Expiration: All variances shall have an expiration period(s) as provided in [Article 60](#).

52.10 Revocation and Modification: Variances may be revoked or modified as provided in [Article 60](#).

SEC. 21-50.20 VARIANCE FROM PARKING REQUIREMENTS.

52.21 Parking variance: Notwithstanding any other provision of this Article, a variance may be granted from the parking requirements of this Chapter in order that some or all of the required parking spaces be located off-site, including locations in other local jurisdictions, or that in-lieu fees or facilities be provided instead of the required parking spaces, if both the following conditions are met:

- (a) The variance will be an incentive to, and a benefit for, the non-residential development.
- (b) The variance will facilitate access to the non-residential development by patrons of public transit facilities, particularly guideway facilities.